

## **Remarks**

**Examiner Item 4.** A "computer-readable medium" in claims 37, 71, and 98 is interpreted as a medium that excludes a paper and transmission type media, such as a signal.

Claims 37, 71 and 98 are amended to specify a computer readable medium for causing a computer to execute instructions. Since the claims now call for a computer to execute the instructions, Applicant contends the claim falls within a category of statutory subject matter. Support for these amendments may be found at least in paragraph 61 of the specification.

**Examiner Item 6.** Claims 64-66, 68-69, 88-89, 91, 94, and 96-97 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 64 and 88 have been amended to specify "a data processing system executing one or more instruction blocks". Since the claims now call for a Data Processing System (computer) to execute the instructions, Applicant contends the claim falls within a category of statutory subject matter. Support for these amendments may be found at least in paragraph 61 of the specification.

**Examiner Item 8.** Claims 1-3, 5-6, 8, 10, 17-18, 19, 20-21, 23-24, 26, 28, 35-39, 41-42, 44, 46, 53-57, 59-60, 62-66, 68-69, 71-73, 75-76, 78-79, 81, 88-89, 91, 98-99, and 101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corson et al. ("Internet-Based Mobile Ad Hoc Networking", IEEE Internet Computing, July-August 1999, pages 63-70) in view of Novaes (US Patent No. 6,732,189 B1), and further in view of Elliott et al. (US Patent No. 6,335,927 B1).

Applicant respectfully traverses this finding and asserts the Examiner has failed to establish a prima facie case of obviousness. The examiner finds the claimed limitation of "retrieving a gateway time at which a message from the gateway CCA was received; and selecting and assigning a new gateway CCA based upon a result of a formula for comparing the current time and the gateway time." is satisfied by use of the "Ping" command.

As described in [en.wikipedia.org/wiki/Ping](http://en.wikipedia.org/wiki/Ping), the “Ping” command provides round trip latency from a sender to a node. A Ping command will not provide the arrival time of a message unless there is some modification to the command.

The claimed limitations requires two distinct commands at a CCA capable node and keeping track of the arrival time of each because the determination called for in claim 1 is a function of the two arrival times:

“determining a current time at which the message was received;

retrieving a gateway time at which a message from the gateway CCA was received;”

The single Ping command per candidate gateway (col 98 line 55 to col 99 line 1) of Elliott cannot provide a gateway time “from the gateway CCA” as the receipt time and a current time for “the message from each CCA-capable node” (claim 1). Since the single Ping command will not work for the purpose intended by the Examiner, the claimed limitation is not found in the references singly or in combination. Hence each and every claimed limitation is not found or suggested as required by MPEP 2143.03, citing *In Re Royka* 490 F.2d 981, and the prima facie case of obviousness has not been made.

The Examiner may point out that not all the claimed limitations have to be taught or suggested in the prior art but then the Examiner has to explain how one combines the Ping command of Elliott with Corson.

The Examiner may argue a person skilled in the art will combine known elements to yield a predictable result. However, the Ping command can not be used in Applicant’s invention without modification. The Ping command, generally, does not provide “a current time at which the message was received” as required by claim 1.

The Examiner may suggest the Ping command is merely a substitution for applicant’s commands. However, as discussed above, the Ping command would have to be modified to accomplish Applicant’s function and that obviates the prima facie case of obviousness.

Finally, the Examiner may suggest or find some teaching, suggestion or motivation to combine Elliott's Ping command with Corson. However, Applicant's invention requires comparing the arrival times of two distinct commands where the Ping is a single command. The Examiner's analysis, so far, has not identified any teaching suggestion or motivation to compare the arrival times of two commands.

Applicant respectfully requests allowance of all claims.

Claims 2, 3, 5-6, 8, 10, 17 and 18 are allowable in that parent independent claim 1 is allowable.

Claim 19, Applicant traverses the Examiner's rejection of claim 19 at least for the same reasons given in Applicant's traverse of claim 1's rejection.

Claims 20, 21, 23, 24, 26, 28, 35-39, 41-42, 44, 46, 53, 56 are allowable at least in so far as claim 1 is allowable.

Claim 55, 56, 59, 60, 62-66, 68, 69, 71, 72, 75, 76, 78, 79, 81, 88, 89, 91, 98, 101, are allowable at least in so far as claim 1 is allowable.

**Examiner Item 9.** Claims 13, 31, 49, 84, 94, and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corson et al. ("Internet-Based Mobile Ad Hoc Networking", IEEE Internet Computing, July-August 1999, pages 63-70) in view of Novaes (US Patent No. 6,732,189 B1) and Elliott et al. (US Patent No. 6,335,927 B1), and further in view of Chari et al. (US Application No. 200210107023 A1).

Claims 13, 31, 49, 84, 94 and 104 are allowable in as much as their respective parent independent claims are allowable at least for the same reasons as for independent claim 1.

**Examiner item 10.** Claims 15-16, 33-34, 51-52, 86-87, 96-97, and 106-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corson et al. ("Internet-Based Mobile Ad Hoc Networking", IEEE Internet Computing, July-August 1999, pages 63-70) in view of Novaes (US Patent No. 6,732,189 B1) and Elliott et al. (US Patent No. 6,335,927 B1),

and further in view of Kursawe et al. (US Application No. 200110025351 A1) and Lisiecki et al. (US Application 200210143888 A1).

Claims 15-16, 33-34, 51-52, 86-87, 96-97 and 106-107 are allowable in as much as their respective parent independent claims are allowable at least for the same reasons as for independent claim 1.

### **Conclusion**

In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-3984. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-3984.

Respectfully submitted,

/George R. Rapacki/

George R. Rapacki  
Attorney for Applicants  
Reg. No. 60770  
HRL Laboratories, LLC  
3011 Malibu Canyon Road  
Malibu, CA 90265  
(310) 317-5823